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10/629,040	07/28/2003	Robert N. Mayo	200208395	7387

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EXAMINER

FRINK, JOHN MOORE

ART UNIT	PAPER NUMBER
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2112

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/629,040

**Applicant(s)**

MAYO ET AL.

**Examiner**

John M. Frink

**Art Unit**

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 8, 9, 23 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. Regarding claims 8 and 23, it is not clear to one of ordinary skill in the art how to make or use cost indication information associated with the client request, nor is not clear to one of ordinary skill in the art how a cost indication associated with the client request would be determined.

b. Regarding claims 9 and 24, it is not clear to one of ordinary skill in the art how to make or use computational intensity information associated with the client request, nor is not clear to one of ordinary skill in the art how computational intensity associated with the client request would be determined.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 5, 14, 16, 18, 19, 20 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaye (US 6,415,322 B1).

c. Regarding claim 1, Jaye discloses a set of access subsystems for use in accessing a persistent store in response to a client request and a transaction director that directs requests in response to a set of client-side information associated with the client request (Fig. 2, col. 2 lines 1 – 25, col. 6 lines 47 –57, col. 8 lines 40 – 67 and col. 9 lines 1 - 26).

d. Regarding claim 16, Jaye further discloses a method for directing client requests in an information system by assigning the client request to an access subsystem in the information system in response to a set of client-side information (Fig. 2, col. 2 lines 1 – 25, col. 6 lines 47 –57, col. 8 lines 40 – 67 and col. 9 lines 1 - 26).

e. Regarding claims 3 and 18, Jaye further discloses said client-side information pertaining to the user that caused the client request (Fig. 2, col. 2 lines 1 – 25, col. 6 lines 47 –57, col. 7 lines 6 – 26, col. 8 lines 40 – 67 and col. 9 lines 1 - 26).

f. Regarding claims 4 and 19, Jaye further discloses said client-side information including information pertaining to a history of prior interactions with the information system (Fig. 2, Fig 6, col. 8 lines 40 – 67 and col. 9 lines 1 - 26).

Specifically, Jaye discloses using cookies as a key element in a method of tracking the history of a client's behavior; cookies are inherently stored on a client's system and thus inherently comprise client-side information.

g. Regarding claims 5 and 20, Jaye further discloses said client-side information including information with the frequency of client requests from a client that generated the client request (Fig. 2, Fig 6, col. 7 lines 6 – 26, col. 8 lines 40 – 67 and col. 9 lines 1 - 26). Specifically, Jaye discloses using cookies as a key element in a method of tracking the history of a client's behavior including a frequency of client requests (col. 7 lines 6 – 26); cookies are inherently stored on a client's system and thus inherently comprise client-side information.

h. Regarding claims 14 and 29, Jaye further discloses said client-side information including a cookie that is stored in a client that originated the client request (Fig. 2, col. 2 lines 1 – 25, col. 6 lines 47 – 56).

5. Claims 1, 2, 3, 7, 11, 12, 16, 17, 18, 22, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Toga (5,987,504).

i. Regarding claim 1, Toga discloses a set of access subsystems for use in accessing a persistent store in response to a client request and a transaction director that directs requests in response to a set of client-side information associated with the client request (Fig. 4, col. 1 lines 65 – 67, col. 2 lines 1 - 11).

j. Regarding claim 16, Toga discloses a method for directing a client request by assigning the client request to a set of access subsystems in response to a

set of client-side information associated with the client request (Fig. 4, col. 1 lines 65 – 67, col. 2 lines 1 - 11).

k. Regarding claims 2 and 17, Toga further discloses said client-side information where said information includes data pertaining to a client that generated the client request (Fig. 4, col. 3 lines 58 - 60).

l. Regarding claims 3 and 18, Toga further discloses said client-side information pertaining to the user that caused the client request; specifically the client's user-agent (Fig. 4).

m. Regarding claims 7 and 22, Toga further discloses said information including a hint to where the data pertaining to a client request may be stored (Fig. 4). Specifically, Toga discloses an HTTP client request message, which includes a file path (item 212 of Fig. 4) corresponding to the file requested. The file path directly relates to the location of where the data pertaining to the request is stored.

n. Regarding claims 11 and 26, Toga further discloses said information including an indication of hardware capabilities of a client that originated the client request; specifically Toga discloses displaying which operating system and web browser the client is using through disclosing the client's user-agent, which inherently discloses a client's operating system as part of the user-agent (Fig. 4). Operating systems and web browsers both have basic hardware requirements that determine on which machines they will run, and thus being able to tell the

operating system and web browser running on a particular machine gives an indication of that machine's hardware capabilities.

o. Regarding claims 12 and 27, Toga further discloses said information including an indication the type of application that generated the request; specifically Toga discloses displaying which web browser the client is using which is inherently disclosed in the client's user-agent (Fig. 4).

6. Claims 1, 2, 6, ~~10~~, 12, 13, 16, 17, 21, ~~26~~, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by APACHE: The Definitive Guide (Laurie, P. and Laurie, B., 1997 -1999).

p. Regarding claim 1, Laurie and Laurie disclose the Apache webserver's logging mechanisms, which inherently disclose a set of access subsystems for use in accessing a persistent store in response to a client request and a transaction director that directs requests in response to a set of client-side information associated with the client request (Section 11.5). The Apache webserver's logging mechanisms compile and organize information sent in the form of a client request.

q. Regarding claim 16, Laurie and Laurie disclose a method for directing a client request by assigning the client request to a set of access subsystems in response to a set of client-side information associated with the client request (Section 11.5).

r. Regarding claims 2 and 17, Laurie and Laurie disclose an information system for use in accessing persistent store in response to a client request

where said client-side information includes data pertaining to a client that generated the client request (Section 11.5.3).

s. Regarding claims 6 and 21, Laurie and Laurie further disclose said client-side information where said information including a priority of a set of data targeted by the client request (Section 6.4 and 11.5.3).

t. Regarding claims 12 and 27, Laurie and Laurie further disclose said information including an indication the type of application that generated the request; specifically Laurie and Laurie disclose displaying which web browser the client is using through disclosing the client's user-agent (Section 11.5).

u. Regarding claims 13 and 28, Laurie and Laurie further disclose said information including an indication of the client's location; specifically Laurie and Laurie disclose displaying the client's IP address which can be used to determine an indication of the client's location (Section 11.5.3).

7. Claims 1, 6, 14, 16, 21 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Masters (US 2001/0023442 A1).

v. Regarding claim 1, Masters discloses a set of access subsystems for use in accessing a persistent store in response to a client request and a transaction director that directs requests in response to a set of client-side information associated with the client request (Fig. 4B, Fig. 9, pg. 2 col. 1 lines 31 – 62 and col. 2 lines 1 – 4, pg. 8 col. 2 lines 54 - 61).

w. Regarding claim 16, Masters discloses a method for directing a client request by assigning the client request to a set of access subsystems in



response to a set of client-side information associated with the client request (Fig. 4B, Fig. 9, pg. 2 col. 1 lines 31 – 62 and col. 2 lines 1 – 4, pg. 8 col. 2 lines 54 - 61).

x. Regarding claims 6 and 21, Masters further discloses a system and method where said client-side information includes a priority of the data targeted by the client request (pg. 2 col. 1 lines 31 – 62 and col. 2 lines 1 – 4, pg. 8 col. 2 lines 54 - 61).

y. Regarding claims 14 and 29, Masters further discloses a system and method where said client-side information includes a cookie that is stored in a client that originated the client request (Fig. 4B, pg. 1 col. 2 lines 27 – 52).

8. Claims 1, 8, 9, 16, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by W3.org

(<http://web.archive.org/web/19970606013505/http://www.w3.org/Protocols/HTTP/HTRQ-Headers.html>; June 6, 1997).

z. Regarding claim 1, W3.org discloses the HTTP protocol which comprises a set of access subsystems for use in accessing a persistent store in response to a client request and a transaction director that directs requests in response to a set of client-side information associated with the client request

(<http://web.archive.org/web/19970606013505/http://www.w3.org/Protocols/HTTP/HTRQ-Headers.html>, From, Accept, and User-Agent sections).

aa. Regarding claim 16, W3.org discloses a method for directing a client request by assigning the client request to a set of access subsystems in

response to a set of client-side information associated with the client request  
(<http://web.archive.org/web/19970606013505/http://www.w3.org/Protocols/HTTP/HTTRQ-Headers.html>, From, Accept, and User-Agent sections).

bb. Regarding claims 8 and 23, W3.org discloses an information system for use in accessing persistent store in response to a client request where said client-side information includes a cost indication with the client request, specifically by the use of 'type parameters' that allow the server to economise with regards to transmission time; higher values for type parameters such as 'dpi' result in higher costs of transmission

(<http://web.archive.org/web/19970606013505/http://www.w3.org/Protocols/HTTP/HTTRQ-Headers.html>, Accept section).

cc. Regarding claims 9 and 24, W3.org further discloses where said client-side information includes a computational intensity associated with the client request, specifically by the use of 'type parameters' that allow the server to economise with also with regards to computational intensity. The specific example of sending black and white images rather than color images in order to lower computational intensity is given; larger color images require more computational intensity to transmit on the server end and to display or convert on the client end

(<http://web.archive.org/web/19970606013505/http://www.w3.org/Protocols/HTTP/HTTRQ-Headers.html>, Accept section).

9. Claims 1, 15, 16 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman et al. (US 2001/0049717 A1).

dd. Regarding claim 1, Freeman et al. disclose a set of access subsystems for use in accessing a persistent store in response to a client request and a transaction director that directs requests in response to a set of client-side information associated with the client request (Fig. 2A, Fig. 3, Fig. 9A, pg. 11 col. 2 lines 6 – 54 and pg. 12 col. 1 lines 1 - 21).

ee. Regarding claim 16, Freeman et al. discloses a method for directing a client request by assigning the client request to a set of access subsystems in response to a set of client-side information associated with the client request (Fig. 2A, Fig. 3, Fig. 9A, pg. 11 col. 2 lines 6 – 54 and pg. 12 col. 1 lines 1 - 21).

ff. Regarding claims 15 and 30, Freeman et al. disclose the transaction director assigning the client request to the access subsystems in response to the client-side information and a rank associated with each subsystem (Fig. 2A, Fig. 3, Fig. 9A, pg. 11 col. 2 lines 6 – 54 and pg. 12 col. 1 lines 1 - 21).

10. Claims 1, 2, 7, 10, 11, 12, 13, 16, 17, 22, 25, 26, 27 and 28 are rejected under 35 U.S.C. 102(a) as being anticipated by HTTP: The Definitive Guide (Gourley, D. and Totty, B., September, 2002).

gg. Regarding claim 1, Gourley and Totty disclose HTTP, specifically discussing the Common Log Format (Section 21.2.1). This log format stores information related to a set of access subsystems for use in accessing a persistent store (the persistent store and access subsystems being, for example,

a web server) in response to a client request (the client's request inherently results in an entry being made in the disclosed log format shown in Table 21-1 and Example 21.1) in the and a transaction director that directs requests in response to a set of client-side information associated with the client request (Section 21.2.1 and 21.2.2).

hh. Regarding claim 16, Gourley and Totty disclose method for directing a client request by assigning the client request to a set of access subsystems in response to a set of client-side information associated with the client request (Section 21.2.1 and 21.2.2).

ii. Regarding claims 2 and 17, Gourley and Totty further disclose an information system for use in accessing persistent store in response to a client request where said client-side information includes data pertaining to a client that generated the client request (Section 21.2.1 and 21.2.2).

jj. Regarding claims 7 and 22, Gourley and Totty further disclose said information including a hint to where the data pertaining to a client request may be stored, specifically in the HTTP request-line (Section 21.2.1).

kk. Regarding claims 10 and 25, Gourley and Totty further disclose said information including a hint to where the data pertaining to a client includes samples from sensors in the client environment; specifically sensors in the client environment that detect which Operating System and web browser the client is using (Section 21.2.2).

ll. Regarding claims 11 and 26, Gourley and Totty further disclose said information including an indication of the hardware capabilities of a client that originated the client request; specifically Gourley and Totty disclose displaying which operating system and web browser the client is using (Section 21.2.2). Operating systems and web browsers both have basic hardware requirements that determine on which machines they will run and thus being able to tell the operating system and web browser running on a particular machine gives an indication of that machines hardware capabilities.

mm. Regarding claims 12 and 27, Gourley and Totty further disclose said information including an indication the type of application that generated the request; specifically Gourley and Totty disclose displaying which web browser the client is using through disclosing the client's user-agent (Section 21.2.2).

nn. Regarding claims 13 and 28, Gourley and Totty further disclose said information including an indication client's location; specifically Gourley and Totty disclose displaying the client's IP address which can be used to determine an indication of the client's location (Section 21.2.1).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Frink whose telephone number is (571)272-9686. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on (571)272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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